



THE ATTORNEY GENERAL OF TEXAS

GERALD C. MANN
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ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable Geo. H. Sheppard
Comptroller of Public Accounts
Austin, Texas

Dear Sir:

Opinion No. 0-1046

Re: Whether 20% prize tax provided in
Article 7047f, R.C.S., is due upon
prize given away by American Legion
under stated facts.

We are in receipt of your letter of June 24, 1939,
wherein you outline the following facts:

The American Legion Rodeo is an annual event put on by the local Post of the American Legion at Pecos, Texas. The Rodeo is not operated for a profit, but all entrance fees paid by the contestants are paid back to them in the form of prizes. Admissions charged at the gate are used to defray the expenses of the Rodeo, such as rental of stock, labor, lights, advertising, feed, etc. Receipts from the above sources have never been sufficient to meet the expenses of the Rodeo, and the Post proposes to make up the deficit in whole or in part by selling to local merchants coupons which they, in turn, will give to their customers, each coupon entitling the customer to a chance on prize or prizes given away at the Rodeo. Generally at such rodeos there is a succession of entertaining events, and the same may continue for one or more days, and we shall assume such to be true in this case. From a statement contained in the facts submitted to us, we shall also assume that the prizes will be given away at a place to enter which admission fees were charged.

Section (a) and the first sentence in Section (b) of
Article 7047f, Revised Civil Statutes, read as follows:

"Every person, firm, or corporation conducting a theatre, place of amusement, or business enterprise in connection with the operation of which a prize in the form of money or something of value is offered or given to one or more patrons of such theatre, place of amusement, or business enterprise, and not given to all patrons thereof paying the same charge for any certain service, commodity, or entertainment, shall make a

verified monthly report on the twenty-fifth day of each month to the Comptroller of Public Accounts of the State of Texas, showing the amount of money so given in prizes, and the value of all prizes or awards so given in connection with such business during the next preceding month.

"There is hereby levied a tax equal to twenty per cent (20%) of the value of all such money, prizes, and awards given in connection with the operation of each and all of the foregoing business enterprises, and at the time of making the report to the Comptroller of Public Accounts, the owner or operator of any such business shall pay to the State Treasurer such tax upon the total amount of money, prizes, and awards to given during the next preceding month. . . ."

You request our opinion as to whether or not under the above facts the 20% tax levied by the above statute will be due upon the prizes thus given away, or to be given away at the Pecos Rodeo.

If not a business enterprise, such a rodeo would certainly be a place of amusement. As we construe the facts submitted to us, the prizes would be given away in connection with the operation of the Rodeo. We are left to guess as to the procedure to be adopted in giving away the prizes, but we will engage in another assumption, this time to the effect that drawings will be held to determine the persons who will receive the prizes. There will be many patrons of the Rodeo paying the same admission charge, and the persons receiving these prizes will be paying no greater charge for the entertainment than the other patrons. Under the facts submitted to us, and if the further facts are as we have assumed, then the 20% tax will be due as levied by the statute.

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Yours very truly
ATTORNEY GENERAL OF TEXAS

By s/Glenn R. Lewis
Glenn R. Lewis
Assistant

GRL:FG:wc

APPROVED JUL 20, 1939
s/W.F. Moore
FIRST ASSISTANT
ATTORNEY GENERAL

Approved Opinion Committee By s/TDR Chairman